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FROM USMISSION UNESCO PARIS  
STATE FOR L THESSIN, L/UNA OSBORN, IO MILLER, IO/EX TIERNAN,  
IO/T DRISCOLL

E.O. 12958: N/A

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SUBJECT: USUNESCO ASSIGNMENT OF ATTORNEY TO THE MISSION

RE: USUNESCO MISSION PROGRAM PLAN 2006 AND 2007

1. The conclusion of UNESCO's biannual Executive Board meeting last Friday once again showed how important it is to assign an attorney advisor to this Mission. Both Judy Osborn and Mike Peay did a fantastic job as usual, but we were left for over a week without legal advice and certainly felt the lack of continuity in our legal representation while we were engaged in various issues with legal connotations, including our tough negotiations with the European Union. As it was, Mike Peay stayed an extra day to complete the EU negotiations, but the presence of a lawyer in the week between Judy's departure and Mike's arrival might have helped us avoid the last minute drama on the EU issue.

2. The US Mission's efforts to push back on new normative instruments is having some success, but this last Executive Board meeting made it clear that many member states see UNESCO's normative instruments as a key part of the organization's work. In other words, they are never going to go away. Presently we are in the final stages of the Anti-Doping Convention, but how it will be implemented, and other related issues, will require sustained legal advice. We do not want to see the cultural diversity negotiations rushed and hope they will continue after the next General Conference (October 2005), which means they could go on two more years. The bioethics declaration being elaborated is clearly the first step toward a convention, and we keep hearing talk about a convention on environmental ethics, a declaration on the ethics of space and one on nanotechnology.

3. Active, on-site legal advice during the entirety of the Executive Board deliberations would have been useful, particularly regarding our efforts to get UNESCO to focus on new ways of implementing conventions. We kept having current UNESCO treaty implementation practice waved at us when someone readily at hand with knowledge about this is handled throughout the UN system would have been invaluable for an effective rebuttal. The UNESCO legal advisor's office is appropriately cautious but we need regular, on-going relations with that office, especially when they make assertions like the European Union can participate in cultural diversity negotiations primarily because the UNESCO constitution does not expressly prohibit this.

4. Clearly, there's enough to keep a lawyer busy in this mission but we would propose that a lawyer assigned here also serve as back-up attorney for Geneva. It is our understanding that Geneva has enough legal work that they have been requesting a third lawyer for some time.

5. Finally, I understand that it may take a while to actually get someone in place. That being the case, in view of the weighty legal issues we will be confronting, I would like, in the interest of protecting and advancing U.S. foreign policy at this multilateral institution, to make an early plea that our mission be provided with constant legal coverage throughout this fall's UNESCO Executive Board and General Conference. They will extend for six weeks from mid September to late October.

OLIVER